

April 28, 2005

Beverly Morrison
BM Consulting Services, Inc.
3762 N.W. 176th Terrace
Miami Gardens, FL 33055

RE: REQUEST FOR ADVISORY OPINION 05-38

Dear Ms. Morrison:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on April 27, 2005 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding the application of the two-year rule to any agreements between your consulting company and Miami-Dade County or municipalities within Miami-Dade County. Further, you are seeking a waiver of the Ethics Commission's policy barring employees from working for Miami-Dade County or a municipality within two years of leaving the Ethics Commission.

In your letter, you advised the Commission that you served as an investigator for the Ethics Commission until December 3, 2004. Subsequently, you contracted with the Ethics Commission to provide auditing consultant services. Specifically, you are working with the Ethics Commission Auditor on the post-election audits of candidates who received public financing. In your capacity as a consultant, you do not conduct investigations of lobbyists, contractors or vendors or municipalities. Section four of your Professional Services Agreement with the

Ethics Commission states that you must abide by the provisions of the Conflict of Interest and Code of Ethics ordinance.

The Commission found that the Conflict of Interest and Code of Ethics ordinance permits you to contract with municipalities in Miami-Dade County, current or potential vendors of Miami-Dade County and lobbyists. However, you are prohibited from contracting with Miami-Dade County. Section 2-11.1(q) (1) provides that "(n)o person who has served as an elected County official, i.e. mayor, County Commissioner or a member of the staff of an elected County official or as County Manager, department director, departmental personnel or employee shall for a period of two years after his or her County service or employment has ceased lobby any County officer, departmental officer or employee on connection with any judicial or other proceeding, application, RFP, RFQ, bid, request for ruling or other determination, contract, claim, controversy, charge, accusation, arrest or other particular subject matter in which Miami-Dade County or one of its agencies or instrumentalities is a party or has any interest whatever, whether direct or indirect." Therefore, the two-year rule only prohibits you from lobbying Miami-Dade County for the two years following your resignation from the Ethics Commission.

However, your consultant agreement requires you to abide by all of the provisions of the Conflict of Interest ordinance. Section 2-11.1(j) prohibits you from contracting with Miami-Dade County during the term of your consulting agreement with the Ethics Commission. Section 2-11.1(j) provides that "no employee shall accept other employment which would impair his or her independence of judgment in the performance of his or her public duties." Since your duties as an auditing consultant involve county elected officials, you should not enter into contracts with Miami-Dade County during the

term of your consulting agreement with the Ethics Commission.

Section 2-11.1(j) does permit you to work with municipalities during the term of your agreement as a consultant to the Ethics Commission. Further, Section 2-11.1(j) permits you to contract with lobbyists, county or municipal contractors and vendors as long as the person or entity was not a candidate, campaign manager, campaign treasurer or paid consultant in any campaign that is being audited by the Ethics Commission.

Finally, the Ethics Commission granted you a waiver of the personnel policy prohibiting former employees from working for Miami-Dade County or any municipality within Miami-Dade County for a period of two years following their employment.

This opinion construes the Miami-Dade Conflict of Interest and Code of Ethics ordinance only and is not applicable to any conflict under state law. Please contact the State of Florida Commission on Ethics if you have any questions regarding possible conflicts under state law.

If you have any questions regarding this opinion, please call the undersigned at (305) 579-2594 or Ardyth Walker, Staff General Counsel at (305) 350-0616.

Sincerely Yours,

ROBERT MEYERS
Executive Director